



Planning Commission Staff Report

TO: PLANNING COMMISSION

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MEETING DATE: FEBRUARY 5, 2014

SUBJECT: Z13-02: REQUEST TO AMEND THE TOWN OF GILBERT LAND DEVELOPMENT CODE, CHAPTER 1 ZONING REGULATIONS, DIVISION 2 LAND USE DESIGNATIONS, ARTICLE 2.1 SINGLE FAMILY RESIDENTIAL DISTRICTS, SECTION 2.103 LAND USE REGULATIONS, TABLE 2.103 LAND USE REGULATIONS - SINGLE FAMILY RESIDENTIAL DISTRICTS AND ARTICLE 2.2 MULTI-FAMILY RESIDENTIAL DISTRICTS, SECTION 2.203 LAND USE REGULATIONS, TABLE 2.203 LAND USE REGULATIONS - MULTI-FAMILY RESIDENTIAL DISTRICTS, RELATED TO PERMITTING RECOVERY RESIDENCES BY RIGHT IN SINGLE-FAMILY AND MULTI-FAMILY RESIDENTIAL ZONING DISTRICTS; AND TO AMEND DIVISION 4 GENERAL REGULATIONS, ARTICLE 4.5 SUPPLEMENTAL USE REGULATIONS, BY ADDING NEW SECTION 4.5015 RECOVERY RESIDENCES TO PROVIDE REGULATIONS AND PERFORMANCE STANDARDS FOR RECOVERY RESIDENCES; AND TO RENUMBER CURRENT SECTION 4.5015 MISCELLANEOUS PROVISIONS TO CONFORM; AND TO AMEND DIVISION 6 USE DEFINITIONS, ARTICLE 6.1 USE DEFINITIONS TO ADD A DEFINITION OF "RECOVERY RESIDENCE" AND TO AMEND THE GLOSSARY OF GENERAL TERMS TO ADD A DEFINITION OF "SINGLE HOUSEKEEPING UNIT".

STRATEGIC INITIATIVE:

Community Livability

The proposed text amendment will maintain and protect the character of Gilbert's neighborhoods while providing locations within the community for these residential living facilities.

RECOMMENDED MOTION

FOR THE REASONS SET FORTH IN THE STAFF REPORT, MOVE TO RECOMMEND APPROVAL TO THE TOWN COUNCIL FOR Z13-02, A TEXT AMENDMENT TO THE ZONING CODE OF GILBERT, ARIZONA TO PERMIT RECOVERY RESIDENCES IN RESIDENTIAL ZONING DISTRICTS SUBJECT TO CERTAIN PERFORMANCE STANDARDS INCLUDING SEPARATION REQUIREMENTS.

BACKGROUND/DISCUSSION**History**

<i>Date</i>	<i>Action</i>
October 2, 2013	Planning Commission discussed the proposed Recovery Residence text amendment, conducted the Citizen Review meeting and initiated the text amendment.
November 6, 2013	Planning Commission conducted a second Citizen Review meeting and discussed the proposed text amendment.
December 4, 2013	Planning Commission held a public hearing and discussed the proposed text amendment details and voted to continue the case to the February 2014 public hearing.

Overview

This proposed text amendment will define a new use classification, "Recovery Residence" that will protect the rights of persons with disabilities to obtain housing in Gilbert in compliance with federal and state fair housing laws. Planning staff has worked with a Focus Group to craft regulations that provide locations within the community for legitimate temporary residential living arrangements serving persons recuperating from the effects of drug or alcohol addiction. Under the Americans with Disabilities Act and fair housing laws, persons recovering from drug and alcohol abuse are considered to be persons with a disability, as long as they are no longer using drugs or alcohol.

The Focus Group met on five occasions between July and December of 2013 and discussed the typical structure and operations of sober living homes as well as potential neighborhood issues associated with these facilities. Two different alternatives were considered to authorize sober

homes. The first alternative required approval of a Conditional Use Permit by the Planning Commission; however, it was determined that the use permit requirement would likely violate fair housing laws. The second and current proposal closely follows the existing “Group Homes for the Handicapped” model that permits the use by right and establishes certain standards for separation, occupancy, licensing, parking and tenancy within Gilbert’s residential neighborhoods. The proposed text amendment outlined below defines a new use classification for this type of group living arrangement and establishes a set of reasonable land use regulations that will accommodate a legitimate use to serve the disabled and protect and preserve the character and quality of Gilbert’s neighborhoods.

At the December 4, 2013 Planning Commission meeting commissioners expressed concern with the occupancy standards and requested that a cap be placed on the number of residents for each home. Subsequently, the Focus Group met to discuss and suggest some final changes to the draft ordinance addressing the occupancy issue as well as some additional changes to procedures and standards. The draft now contains a maximum occupancy of 13 residents as well as Operation & Management Plan provisions for property owner authorization, a resident screening process and indication of Code Compliance access to the premises.

Proposed Zoning Code Amendment

Planning staff proposes a text amendment to the Land Development Code’s (LDC) Single Family Residential and Multi-Family Residential Land Use Regulations and Supplemental Use Regulations.

Article 2.1: Single Family Residential Districts

2.103 Land Use Regulations

Table 2.103 Land Use Regulations – Single Family Residential Districts is hereby amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

<i>Use Classification</i>	<i>SF-43</i>	<i>SF-35</i>	<i>SF-15</i>	<i>SF-10</i>	<i>SF-8</i>	<i>SF-7</i>	<i>SF-6</i>	<i>SF-D</i>	<i>SF-A</i>	<i>Additional Regulations</i>
* * *										
Stables, Non-Commercial	L1	L1	L1	L1	L1	---	---	---	---	See Section 2.107
RECOVERY RESIDENCE	P	P	P	P	P	P	P	P	P	SEE SECTION 4.5015
* * *										

Article 2.2: Multi-Family Residential Districts

2.203 Land Use Regulations

Table 2.203 Land Use Regulations – Multi-Family Residential Districts is hereby amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

<i>Use Classification</i>	<i>MF-L</i>	<i>MF-M</i>	<i>Additional Regulations</i>
* * *			
Shelter Care Facility <i>Large-Scale</i>	U	U	See Section 2.107
RECOVERY RESIDENCE	P	P	SEE SECTION 4.5015
* * *			

Article 4.5 Supplemental Use Regulations

Article 4.5 Supplemental Use Regulations is hereby amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

4.5015 RECOVERY RESIDENCE

A. PURPOSE. THE PURPOSE OF THESE REGULATIONS IS TO PERMIT PERSONS RECOVERING FROM SUBSTANCE ABUSE TO RESIDE IN A GROUP SETTING IN RESIDENTIAL NEIGHBORHOODS IN ORDER TO FACILITATE INTEGRATION AND STABILIZATION AND TO PROVIDE REASONABLE REGULATIONS TO MAINTAIN THE RESIDENTIAL CHARACTER OF NEIGHBORHOODS AND PREVENT A CONCENTRATION OF SUCH FACILITIES IN ANY PARTICULAR AREA SO AS TO INSTITUTIONALIZE THAT AREA.

B. REGISTRATION REQUIRED. PRIOR TO BEGINNING OPERATIONS, THE OWNER OR OPERATOR OF A RECOVERY RESIDENCE SHALL SUBMIT A COMPLETED REGISTRATION FORM TO THE DEVELOPMENT SERVICES DEPARTMENT ON A FORM ESTABLISHED BY THE PLANNING AND DEVELOPMENT SERVICES MANAGER. THE REGISTRATION SHALL BECOME EFFECTIVE UPON VERIFICATION BY THE ZONING ADMINISTRATOR THAT THE REGISTRATION COMPLIES WITH THE REQUIREMENTS OF THE ZONING CODE AND THAT THE RECOVERY RESIDENCE OPERATOR HAS OBTAINED A VALID TOWN OF GILBERT BUSINESS LICENSE FOR THE RECOVERY RESIDENCE. A REGISTRATION SHALL TERMINATE WHEN THE RECOVERY RESIDENCE USE CEASES.

C. ZONING CONFIRMATION. PRIOR TO REGISTRATION, A REQUEST FOR ZONING CONFIRMATION MAY BE SUBMITTED TO THE DEVELOPMENT SERVICES DEPARTMENT TO CONFIRM THAT THE PROPOSED LOCATION OF THE RECOVERY RESIDENCE IS PERMITTED UNDER THIS SECTION.

D. PROCEDURES. IN ADDITION TO THE REGISTRATION FORM, THE APPLICANT SHALL SUBMIT AN OPERATIONS AND MANAGEMENT PLAN (“O&MP”) TO ENSURE COMPLIANCE WITH STATE AND LOCAL LAWS. PLAN SHALL INCLUDE (1) NAME AND ADDRESS OF THE BUSINESS OWNER; (2) NAME, ADDRESS AND TELEPHONE NUMBER OF THE PROPERTY OWNER AND PERSON IN CONTROL OF THE PROPERTY; (3) IF THE BUSINESS OWNER AND PROPERTY OWNER ARE NOT THE SAME PERSON OR ENTITY, APPLICANT SHALL PROVIDE A NOTARIZED LETTER OF AUTHORIZATION FROM THE PROPERTY OWNER; (4) EMERGENCY CONTACT PHONE NUMBER; (5) THE NUMBER OF PERSONS OCCUPYING EACH BEDROOM; (6)

MAXIMUM NUMBER OF OCCUPANTS; (7) A FLOOR PLAN; AND (8) GUEST AND RESIDENT RULES OF CONDUCT.

E. *STANDARDS.* RECOVERY RESIDENCES SHALL BE LOCATED, DEVELOPED, AND OPERATED IN COMPLIANCE WITH THE FOLLOWING STANDARDS:

1. THE RECOVERY RESIDENCE SHALL BE OPERATED AND MANAGED IN COMPLIANCE WITH THE O&MP SUBMITTED WITH REGISTRATION, WHICH SHALL REMAIN ON FILE WITH THE DEVELOPMENT SERVICES DEPARTMENT.
2. THE MINIMUM SEPARATION BETWEEN RECOVERY RESIDENCES SHALL BE 1,200 FEET AS MEASURED FROM THE CLOSEST PROPERTY LINES. NO SEPARATION IS REQUIRED WHEN RECOVERY RESIDENCES ARE SEPARATED BY A UTILITY RIGHT-OF-WAY OF AT LEAST 300 FEET IN WIDTH, OR BY A FREEWAY, ARTERIAL STREET, CANAL, OR RAILROAD.
3. THE NUMBER OF RESIDENTS, INCLUDING THE HOUSE MANAGER, SHALL NOT EXCEED TWO RESIDENTS PER BEDROOM AND A TOTAL OF 13. THE ZONING ADMINISTRATOR MAY INCREASE THE PERMITTED OCCUPANCY BASED ON SPECIFIC CHARACTERISTICS AND IMPACTS.
4. THERE SHALL BE NO SIGN OR OTHER EXTERIOR INDICATION OF A RECOVERY RESIDENCE VISIBLE FROM A STREET.
5. PARKING FOR THE RECOVERY RESIDENCE SHALL BE ON-SITE AND COMPLY WITH LDC ARTICLE 4.2: OFF-STREET PARKING AND LOADING REGULATIONS.
6. NO RECOVERY RESIDENCE SHALL HOUSE ANY PERSON WHOSE TENANCY WOULD CONSTITUTE A DIRECT THREAT TO THE HEALTH OR SAFETY OF OTHER INDIVIDUALS OR WOULD RESULT IN SUBSTANTIAL PHYSICAL DAMAGE TO THE PROPERTY OF OTHERS.

F. *REQUEST FOR ACCOMMODATION.* IF A RECOVERY RESIDENCE OWNER BELIEVES ANY REQUIREMENT OF THE ZONING CODE PREVENTS THE ESTABLISHMENT OF A RECOVERY RESIDENCE IN AN ECONOMICALLY VIABLE MANNER, THE OWNER SHALL SUBMIT TO THE ZONING ADMINISTRATOR A WRITTEN REQUEST FOR ACCOMMODATION AND THE REASONS WHY THE ACCOMMODATION IS REQUIRED. THE WRITTEN REQUEST SHALL CONTAIN SUFFICIENT FACTS TO ALLOW THE ZONING ADMINISTRATOR TO MAKE AN INDIVIDUALIZED DETERMINATION OF THE RECOVERY RESIDENCE'S NEEDS, TO ADDRESS THE TOWN'S SAFETY AND WELFARE CONCERNS, AND TO ASSURE COMPLIANCE WITH THIS SECTION. THE ZONING ADMINISTRATOR SHALL REVIEW THE WRITTEN REQUEST AND DETERMINE:

1. WHETHER AN ACCOMMODATION SHOULD BE MADE PURSUANT TO THE REQUIREMENTS OF THE FAIR HOUSING ACT; AND
2. IF SO, THE NATURE OF THE ACCOMMODATION TAKING INTO CONSIDERATION THE REQUIREMENTS OF THE FAIR HOUSING ACT, PUBLIC SAFETY AND WELFARE CONCERNS, AND THE RESIDENTIAL CHARACTER OF THE NEIGHBORHOOD.

THE ACCOMMODATION SHALL BE MADE ONLY TO THE EXTENT NECESSARY TO COMPLY WITH THE FEDERAL AND STATE FAIR HOUSING LAWS.

Article 6.1 Use Definitions is hereby amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

6.1 USE DEFINITIONS

RECOVERY RESIDENCE. A DWELLING UNIT OR BUILDING USED TO PROVIDE A STABLE, CLEAN AND SOBER ENVIRONMENT FOR INDIVIDUALS RECOVERING FROM SUBSTANCE ABUSE. EVERY PERSON RESIDING IN THE RESIDENCE (EXCLUDING THE HOUSE MANAGER) IS AN “INDIVIDUAL WITH A DISABILITY,” AS THAT TERM IS USED IN THE FEDERAL AND STATE FAIR HOUSING LAWS.

The Glossary of General Terms is hereby amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

SINGLE HOUSEKEEPING UNIT. AN INTERACTIVE GROUP OF PERSONS JOINTLY OCCUPYING A RESIDENTIAL UNIT, INCLUDING THE JOINT USE OF AND RESPONSIBILITY FOR COMMON AREAS, AND SHARING HOUSEHOLD ACTIVITIES AND RESPONSIBILITIES SUCH AS MEALS, CHORES, HOUSEHOLD MAINTENANCE, AND EXPENSES, AND WHERE, IF THE RESIDENTS ARE RENTERS, ALL ADULT RESIDENTS HAVE CHOSEN TO JOINTLY OCCUPY THE ENTIRE PREMISES OF THE DWELLING UNIT UNDER A SINGLE WRITTEN LEASE WITH JOINT USE AND RESPONSIBILITY FOR THE PREMISES, AND THE MAKEUP OF THE HOUSEHOLD OCCUPYING THE UNIT IS DETERMINED BY THE RESIDENTS OF THE UNIT RATHER THAN THE LANDLORD OR PROPERTY MANAGER.

PUBLIC NOTIFICATION AND INPUT

Two Citizen Review meetings were held on October 2, 2013 and November 6, 2013. A notice of public hearing was published in a newspaper of general circulation in the Town, and an official notice was posted in all the required public places within the Town.

Staff has received positive comments from the public at the prior Planning Commission Citizen Review meetings held during Study Sessions.

STAFF RECOMMENDATION

For the following reasons: the proposed regulations will maintain and protect the character and residents of Gilbert's neighborhoods and will protect the rights of persons with disabilities to obtain housing in the community in compliance with federal fair housing laws, the Planning Commission moves to recommend approval to the Town Council for Z13-02, a request to amend the Town of Gilbert Land Development Code to permit Recovery Residences in residential zoning districts subject to certain performance standards including separation requirements.

Respectfully submitted,

Mike Milillo
Senior Planner, CSBA

Attachments:

1. Minutes of the Planning Commission Meeting, dated December 4, 2013

- d. In order for Developer to develop and use the Property as it intends, several off-site improvements are required. All engineering plans and specifications for the improvements shall be approved by the Town Engineer prior to commencement of construction by developer. All improvements shall comply with the Town's design and warranty requirements and other requirement. The Town shall construct the following improvement and Developer shall reimburse the Town its pro rata share of those improvements upon notice from the Town: Ocotillo Road Improvements, Higley Road Improvements, Higley Road Bridge over Queen Creek Wash, the Ocotillo Road Twenty-inch Waterline Improvement and the Higley Road 16" Water Line Improvement.
- 1) The developer shall satisfy all financial obligations pertaining to the Property as set forth in all applicable water and sewer buy-in agreements, whereby the developer shall pay for its proportional share of water and sewer mains prior to final plat approval.

PUBLIC HEARING (NON-CONSENT)

Non-Consent Public Hearing items will be heard at an individual public hearing and will be acted upon by the Commission by a separate motion. During the public hearings, anyone wishing to comment in support of or in opposition to a public hearing item may do so. If you wish to comment on a public hearing item you must fill out a public comment form, indicating the item number on which you wish to be heard. Once the hearing is closed, there will be no further public comment unless requested by a member of the commission.

Z13-02: REQUEST TO AMEND THE TOWN OF GILBERT LAND DEVELOPMENT CODE, CHAPTER 1 ZONING REGULATIONS, DIVISION 2 LAND USE DESIGNATIONS, ARTICLE 2.1 SINGLE FAMILY RESIDENTIAL DISTRICTS, SECTION 2.103 LAND USE REGULATIONS, TABLE 2.103 LAND USE REGULATIONS - SINGLE FAMILY RESIDENTIAL DISTRICTS AND ARTICLE 2.2 MULTI-FAMILY RESIDENTIAL DISTRICTS, SECTION 2.203 LAND USE REGULATIONS, TABLE 2.203 LAND USE REGULATIONS - MULTI-FAMILY RESIDENTIAL DISTRICTS, RELATED TO PERMITTING RECOVERY RESIDENCES BY RIGHT IN SINGLE-FAMILY AND MULTI-FAMILY RESIDENTIAL ZONING DISTRICTS; AND TO AMEND DIVISION 4 GENERAL REGULATIONS, ARTICLE 4.5 SUPPLEMENTAL USE REGULATIONS, BY ADDING NEW SECTION 4.5015 RECOVERY RESIDENCES TO PROVIDE REGULATIONS AND PERFORMANCE STANDARDS FOR RECOVERY RESIDENCES; AND TO RENUMBER CURRENT SECTION 4.5015 MISCELLANEOUS PROVISIONS TO CONFORM; AND TO AMEND DIVISION 6 USE DEFINITIONS, ARTICLE 6.1 USE DEFINITIONS TO ADD A DEFINITION OF "RECOVERY RESIDENCE" AND TO AMEND THE GLOSSARY OF GENERAL TERMS TO ADD A DEFINITION OF "SINGLE HOUSEKEEPING UNIT.

Chairman Wittmann opened the public hearing.

Senior Planner Mike Milillo stated that Z13-02 was a request for a text amendment to allow recovery residences. He commented that what they were talking about was adding recovery residences as a new use classification to allow these facilities in residential neighborhoods. Planner Milillo stated that the Commission had heard the case on two previous occasions and had also heard from various members of a focus group. The focus group was established in the early part of the summer and met on four different

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occasions. They came up with a couple of different alternatives for how to deal with recovery residences. Commissioner Peterson was part of the focus group and is well aware of the discussions that have gone on during the four focus group meetings. What was shared at the last study session was the 1st alternative which was to allow these by Conditional Use Permit but they found that to have some legal issues because the class that they were talking about, recovering drug and alcohol users are a protected class under the Federal Fair Housing Act. They are treated as a protected class as having a disability and in running those through the Conditional Use Permit process staff felt that it was going to have some issues in the future by running afoul with the Federal Fair Housing Act amendments. Planner Milillo said that as a result, they came up with a 2nd proposal which is that they treat those exactly the same as they treat group homes for the handicapped. He would preface all of the specific text amendments by saying that if you compare what staff is proposing for recovery residences to the group homes for the handicapped they are almost exactly the same. There are just a few differences because these are not licensed facilities which are licensed by the state of Arizona whereas group homes for the handicapped are. Mr. Milillo referred to the following information in terms of where they would be permitting recovery residences:

Article 2.1: Single Family Residential Districts

2.103 Land Use Regulations

Table 2.103 Land Use Regulations – Single Family Residential Districts is hereby amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

<i>Use Classification</i>	<i>SF-43</i>	<i>SF-35</i>	<i>SF-15</i>	<i>SF-10</i>	<i>SF-8</i>	<i>SF-7</i>	<i>SF-6</i>	<i>SF-D</i>	<i>SF-A</i>	<i>Additional Regulations</i>
* * *										
Stables, Non-Commercial	L1	L1	L1	L1	L1	---	---	---	---	See Section 2.107
RECOVERY RESIDENCE	P	P	P	P	P	P	P	P	P	SEE SECTION 4.5015
* * *										

Article 2.2: Multi-Family Residential Districts

2.203 Land Use Regulations

Table 2.203 Land Use Regulations – Multi-Family Residential Districts is hereby amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

<i>Use Classification</i>	<i>MF-L</i>	<i>MF-M</i>	<i>Additional Regulations</i>
* * *			
Shelter Care Facility <i>Large-Scale</i>	U	U	See Section 2.107
RECOVERY RESIDENCE	P	P	SEE SECTION 4.5015
* * *			

Planner Milillo said that they would have additional regulations in the Article 4.5 Supplemental Use Regulations. They would replace section 4.5015 with the recovery residence regulations. Similar to the group homes for the handicapped there is a purpose statement which planner Milillo read from page 4 & 5 of the staff report:

Purpose. The purpose of these regulations is to permit persons recovering from substance abuse to reside in a group setting in residential neighborhoods in order to facilitate integration and stabilization and to provide reasonable regulations to maintain the residential character of neighborhoods and prevent a concentration of such facilities in any particular area so as to institutionalize that area.

Planner Milillo said that there would be registration requirements and any potential operator of a recovery residence would need to register with the Town of Gilbert.

Registration required. A completed registration form shall be submitted to the development services department on a form established by the planning manager. Registration shall become effective upon issuance of a certificate of occupancy for the recovery residence and shall terminate when the recovery residence use ceases. No registration shall be accepted for a recovery residence that does not comply with the requirements of the zoning code.

Mr. Milillo stated that they would have to receive zoning confirmation and would need to speak with a staff member to find out whether they were within the required separation distances of 1200 feet from another recovery residence and whether they were in the correct zoning district.

Zoning confirmation. Prior to registration, a request for zoning confirmation may be submitted to the development services department to confirm that the proposed location of the recovery residence is permitted under this section.

Planner Milillo said that in terms of procedures they had a minor deviation from the group homes for the handicapped. Group homes for the handicapped do not have operations and management plans which is referred to as an O&MP but staff felt that due to the potential impact of these facilities on residential neighborhoods that they should require an O&MP which would include all of the contact information so that if there were any issues that arise in the neighborhood they would be able to share the contact information with homeowners association representatives or neighbors within the residential neighborhoods.

Procedures. Submit an operations and management plan (o&mp) to ensure compliance with state and local laws. Plan shall include name and address of the business owner and/or live-in house manager and name address and telephone number of the owner and person in control of the property. Plan shall provide emergency contact phone number. Plan shall indicate the number of persons per bedroom, maximum number of occupants, typical length of stay, and guest and resident rules of conduct.

Planner Milillo read the following information from page 5 of the staff report:

Standards. Recovery residences shall be located, developed, and operated in compliance with the following standards:

1. Recovery residence shall be operated and managed in compliance with the o&mp submitted with registration.
2. The minimum separation between recoveries residences shall be 1,200 feet from another recovery residence as measured from the closest property lines.
3. The number of residents, excluding the house manager, shall not exceed two residents per bedroom. The zoning administrator may increase the permitted occupancy based on specific characteristics and impacts.
4. There shall be no sign or other exterior indication of a recovery residence visible from a street.

5. Parking for the recovery residence shall be on-site and comply with LDC Article 4.2: off-street parking and loading regulations.
6. No recovery residence shall house any person whose tenancy would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others.

Request for accommodation. If a recovery residence owner believes any requirement of the zoning code prevents the establishment of a recovery residence in an economically viable manner, the owner shall submit to the zoning administrator a written request for accommodation and the reasons why the accommodation is required. The written request shall contain sufficient facts to allow the zoning administrator to make an individualized determination of the recovery residence's needs, to address the town's safety and welfare concerns, and to assure compliance with this section. The zoning administrator shall review the written request and determine:

1. Whether an accommodation should be made pursuant to the requirements of the fair housing act; and
2. If so, the nature of the accommodation taking into consideration the requirements of the fair housing act, public safety and welfare concerns, and the residential character of the neighborhood.

The accommodation shall be made only to the extent necessary to comply with the federal and state fair housing laws.

Single housekeeping unit. An interactive group of persons jointly occupying a residential unit, including the joint use of and responsibility for common areas, and sharing household activities and responsibilities such as meals, chores, household maintenance, and expenses, and where, if the unit is rented, all adult residents have chosen to jointly occupy the entire premises of the dwelling unit and under a single written lease with joint use and responsibility for the premises, and the makeup of the household occupying the unit is determined by the residents of the unit rather than the landlord or property manager.

Planner Milillo commented that staff feels fairly comfortable that this is a needed use classification within the Town as there is currently a gap within the regulations. This is not a legal use in the zoning code currently although they know that they have these facilities within Gilbert. Staff feels confident that the proposed regulations comply with the Federal Fair Housing Act Amendment. They feel that it will protect the neighborhoods based on the standards set forth.

Vice Chairman Oehler said that in terms of the parking if they have a 5 bedroom house are they required to park all 5 bedrooms even if they are not occupying all of those at that point or is it based on a stated occupancy.

Planner Milillo responded that the way that the regulations are written for single-family is that all they are required to have is to enclosed parking spaces. That generally means that you also have to have a driveway in front of those 2 parking spaces. The requirement would be two enclosed parking spaces plus the driveway. Parking requirements for single-family are not based on numbers of bedrooms.

Vice Chairman Oehler said that he wished that they could put more into the parking because it is being treated as a single family home which is what the parking code would be as a group home as well. The concern the citizens had been about additional traffic.

Mr. Milillo said that they know that the operators seek out locations where there are other available parking spaces. If they know that they are going to have residents that have a need for parking or exceed the

demand of the two enclosed spaces plus what's on the driveway they are going to seek out locations that have other on Street available parking in the area that would not disrupt the neighborhood.

Vice Chairman Oehler said that would be true with a good operator.

Planner Milillo stated that if other operators end up parking all over the neighborhood Code Compliance will receive complaints and they will have to come into compliance.

Chairman Wittmann asked, if permitted, if they could use on Street parking.

Mr. Milillo said that if on street parking is allowed they could park within reasonable limits on the street.

Commissioner Cavanee said that what he was hearing from the other Commissioners was is there any provision to enforce this and staff was saying that it was just the regular parking code. He said that he believed that was making some of the Commissioners a little uncomfortable. He said that another concern was that a bad operator might classify every room in the house as a bedroom and in the end would end up with a much over occupied unit. He wondered why they didn't use a maximum occupancy number or perhaps square footage of the home.

Mr. Milillo said that they did not go to other communities in order to borrow regulations. What they did was look at their group homes for the handicapped regulations and tried to make these regulations as similar to those as they possibly could because it is a protected class. He said that he understood the Commissioners lack of comfort with the parking and some of the occupancy situations and he did not expect that this would be complete smooth sailing from now on. They are probably going to get good operators and not so good operators and where they had not so good operators they were going to have to use their Code Compliance staff and their jurisdiction in order to take action against those not so good operators. The people in the focus group appear to be the good operators and offered their suggestions on how best to operate those facilities based on their hands on experience and that is the way it is crafted.

Commissioner Cavanee asked if it would be fair to assume that during the registration process, which is a great idea, that some of those details could be stipulated and worked out with the operator. That would give him more comfort.

Chairman Wittmann pointed out that the registration process was not there to restrict or stipulate. She said that she was also concerned about the potential number of occupants and that there was probably a cap that was needed similar to group homes for the handicapped.

Town Attorney Phyllis smiley commented that the main reason that there were a number of occupants on group homes regulations as opposed to this is because the group homes are regulated by state law. That number of occupants is the number in state law for a group home. One of the reasons that they went with number of bedrooms has to do with building codes as there is no state regulation on sober homes but there are building code regulations as to bedrooms and occupancy per bedroom. That is why the Town chose to go the direction that it is going.

Chairman Wittmann said that because of the demographic in Gilbert there are many homes offered with 7 or 8 bedrooms so there is a potential for 16 occupants. She said that is where her concern came in.

Commissioner Cavanee said that it may help if they had a definition of bedroom with parameters. He said that he was afraid that operators would classify rooms as bedrooms that were meant to be bedrooms just to get by.

Vice Chairman Oehler said that there already is a definition for a bedroom which has to have a closet and an escapable route to the exterior through a window or door. He said that he had the same concerns because you could easily change a 4000 ft.² home into a 10 bedroom home. He said that he was leaning toward setting a cap as well.

Commissioner Bianchi asked if they had any idea how many of these facilities might be located in Gilbert. He said that he realizes that they've capped it with every quarter of a mile but did it come up at any of the stakeholders meetings in terms of what the demand was for the potential that they were really looking at.

Planner Milillo said that they know that they have 10 or 12 currently operating in the Town of Gilbert. There does seem to be a demand throughout communities throughout the United States.

Commissioner Bianchi asked if at any of those meetings the operators talked about any preferred house or lot size where the houses work best in.

Planner Milillo said that he could not recall a specific number.

Commissioner Bianchi said that if they were going to allow them in every residential component how would this work in a multifamily environment.

Commissioner Peterson said that the main reason that they stuck with all of the residential components was because of the other homes because of the other classification and they are trying to just mirror that. If they try to differentiate they are changing this classification to a different kind of classification and not allowing them all the opportunity that they could allow them. The legitimate businesses that have come to the focus group are not going to set themselves up for failure. This is a business for them and they are going to choose houses the size that they can manage and that worked in neighborhoods where they have available space to park whether in the garage on the driveway or public parking on the streets. What they need to remember is that these folks are running a business and they need it to run properly in order to keep people and keep the process working for people who need these facilities. Commissioner Peterson said that she understood wanting a cap on the number of people in a home because of the 7 and 8 bedroom homes in Gilbert. She said that she did not know that these people would want to even try set up in a 7 or 8 bedroom home because of all of the other issues that they have to deal with.

Commissioner Sippel said that he would agree with the other Commissioners and maybe a compromise would be to do the two people to a bedroom with an 8 – 12 people cap per facility.

Chairman Wittmann invited citizens who wished to speak on the case to come forward at that time.

Gloria Hernandez, Gilbert Arizona, came forward in opposition to the item. Ms. Hernandez stated that there were two sober homes in her area and in one of the homes they had 19 individuals and on the other side they had at least 10 to 12 at one time. They were not regulated and there was no one there in charge. There were at least 19 calls to the police made in one year. These were people that ran up and down the streets and in one instance one was chasing the other with a knife yelling that he was going to cut him up. Children in the neighborhood were afraid. The calls to the police were not made from just one or two people but from all of the neighbors. They had meetings that that they attended where the people would actually sit outside their bedroom windows on the street on the gutter talking. They said they were talking about the meetings. Ms. Hernandez asked what meeting they could be holding from 11 PM to 3 AM in the morning. This is a residential neighborhood and children have to get up to go to school and adults have to get up to go to work. Ms. Hernandez said that it had been presented that this meeting was advertised but the only way she got word of the meeting was because the homes where there and they were infringing on her lifestyle. She said there were plenty buildings in Gilbert that were empty, why did they have to go into residential.

Chairman Wittmann stated that one of the purposes for the current meeting was to discuss putting some restrictions and limitations on those homes that currently exist and are causing problems such as this. She asked Ms. Hernandez if she had had any opportunity to reach out to those two facilities.

Ms. Hernandez said that they did talk to them and they were always polite with their responses but in terms of acting no one was there to enforce anything. There was no one in charge. They could never find the person that the home was leased from. Also, a Sobers homes lights are on all night long because they are always expecting someone and cars go up and down the street all night long. She asked why they were being compared to a handicapped person because that is like comparing oranges to apples.

Chairman Wittmann said that they weren't really comparing them but just as far as use restrictions they were looking at some of the similarities as far as housing people within homes.

Janet New, Gilbert AZ, came forward in opposition to the case. Ms. New said that she had lived in her home for 3 years and has had a sober home behind her and a sober house for two years right beside her. She said that she comes here in the winter wanting to vacation and enjoy her home and the sober houses have made her life a living hell because she never gets any sleep. The cars come and go all night long and park all up and down the street and make noise. She said that her only recourse was to move which she almost did last year.

Gonzalo Ardavin, Gilbert AZ, came forward. Mr. Ardavin stated that he was an operator of multiple sober living homes. He commented that he was part of the focus group and how the process when it was amazing. He said that they really tried to cover all the bases. He said that this ordinance eliminates the houses and the bad experience that the 2 previous speakers had. He said that he certainly does not run houses in that manner. One of the issues is defining bedrooms. Part of the o&m is that they are going to provide a layout and define where the bedrooms are as part of the submission. That can be verified at that point. Traffic is a huge issue and a typical model of a house is 4 or 5 bedrooms with 2 ½ or 3 baths. They try to find houses that are big enough so that they can create two separate living areas. Mr. Ardavin said that he had been operating his facility since 2008 and on average 50% of the people have vehicles and 50% do not. In terms of parking they have to meet the city requirements. When they look for houses they look for houses that meet their needs and they have 2 people per bedroom and one house manager. In a 5 bedroom home they will house 11 people with 3 people in the master bedroom.

Vice Chairman Oehler said that in terms of the city parking codes and living in a 5 bedroom house with 6 cars on-site how do they typically deal with 6 cars.

Mr. Ardavin said that in the five-bedroom houses that he runs they have three-car garages. The driveways are also wider so that they can park there and the houses that they look for do allow on Street parking and that is how they handle it.

Vice Chairman Oehler asked if they park the cars in tandem.

Mr. Ardavin said that they do.

Vice Chairman Oehler asked if they have in their statement of regulations how they run their business, do they actually put in there that they park their cars on-site before they park on the street.

Mr. Ardavin said that they do. Each house manager has a system as to how the parking is handled. It is no different than having children park behind you who would know that they have to have their car out of the way before you leave for work. They handle those things like a family.

Jeff Marsh, Tempe AZ, came forward in favor of the item. Mr. Marsh said that he was also an operator/owner of a sober living residence within the Gilbert city limits. He said that he wanted to focus on the issues that the two women speakers commented on previously. The reason that they brought the case to the city was because of a regulation that they were following which is less than 10 people in a house. The whole thing started with one of his residences. His approach was that they wanted to follow all the rules and regulations that the town of Gilbert has so when he was approached about having this ordinance created he wanted to be able to follow everything that Gilbert laid out. The intent of the ordinance is that they do it the right way because they know their operators out there who are not doing it the right way. He commented that they regulate their residences to have a 10 PM curfew and do mandatory drug and alcohol testing so that they know that their residents are clean at all times. If they aren't they are removed from the house. The residents must have a job and be involved in a 12 step community and recovery and must be working with another person in recovery to help them better themselves. Most of the residents that are in the legally operated sober homes are coming out of a 30 Day Treatment center where they have gotten the tools to help them recover and obtain sobriety. They are trying to put their residents back into normal society where they can attain a level of self-sufficiency and not be a hindrance to society but be beneficial. The overall intent of this was to establish an ordinance that would prevent the description of what the ladies have in their backyards.

Commissioner Bianchi asked how they ensure that the uses are disruptive to neighborhoods and if you are a sober house operator how you patrol that.

Mr. Marsh said in his home they have a house manager and an assistant house manager so someone is there almost 24 hours a day. Part of the operating agreement is that those operators have certain rights by agreement to give discipline or kick someone out if they are abusing privileges and in that sense they maintain the level of the house and maintain the security and environment of the house. Mr. Marsh said that he typically goes to his houses 2 and 3 times a week. He and his business partner are constantly involved and that is how they maintain the level of the home.

Commissioner Bianchi asked if they typically lease or buy these houses.

Mr. Marsh said the current market conditions they are renting but their ultimate goal is to buy their houses. He commented that when he rented his homes he informed the owners as to what his plan was and showed them his operating manual.

Commissioner Sippel asked what the occupancy was in Mr. Marshes Homes.

Mr. Marsh said that he was originally cited for having 10 people in a five-bedroom house that were unrelated. In starting his business he was unaware of that rule. In his house in Gilbert he has 5 bedrooms with 2 people per bedroom in a 2800 ft.² house with 6 available parking spaces on the premises. There are only four cars there currently.

Vice Chairman Oehler asked staff if they had a guesthouse on a property would the ordinance be based per house or on the total property.

Planner Milillo said that it would be based on per property because they measure from the lot line the separation distances. If the Commission were inclined to approve the case there is a sentence that they need to add in the separation sentence which is exactly the same as the sentence that they have in the group homes for the handicapped. It clarifies how it is measured and it is lot to lot so you would not be able to count a guesthouse separately.

Vice Chairman Oehler said if there was a stipulation, for example 10, would that still be per house or per property.

Mr. Milillo said that would be per property.

Vice Chairman Oehler asked if any of the residences would be grandfathered.

Planner Milillo said no and that all of the uses that are currently operating are illegal. They are not operating legally because they do not have any regulations that address them. Each residence will have to go through a registration process to make sure that they meet the separation distances before they can actually become legal.

Vice Chairman Oehler asked if there were any minimum standards for the operating agreement.

Mr. Milillo said only in so far as they have it outlined within the actual code such as contact information, number of persons per bedroom, maximum number of occupants, typical length of stay and guest and resident rules of conduct.

Commissioner Fuller's asked if testing, lights out, curfews and financial capabilities needed to be in the plan.

Planner Milillo said that a lot of those items that had been mentioned would fall under rules of conduct which is mentioned.

Commissioner Peterson said that each business would have its own rules of conduct.

Commissioner Fuller said that he believed that the majority of people would not have an issue with a properly run recovery house. The people's concern is about the ones who are not properly run. He said that they were enacting a regulation that he was not sure solved the problem but simply raised the bar. The question was does it raise it high enough so that the citizens feel that some meaningful legislation will be passed.

Planner Milillo stated that what they were trying to do was to strike a balance. They understood that two major issues were parking and occupancy. What is in 4.2 03A states that all required parking shall be provided on-site. There is also subsection F visitor parking which states that on Street parking may be counted towards visitor parking so in certain zoning districts they have some visitor parking requirements where there are really high densities. They also have some on Street parking allowance for those districts here. But when they actually get into the on-site parking requirements what they require for single-family is two enclosed spaces per unit. For single-family with no on Street parking, two enclosed spaces per unit +.25 guest spaces per unit are required. Multifamily is based on the number of bedrooms. That is what they will be applying to those facilities. Planner Milillo stated that if the Commission is inclined to recommend approval under the separation distances the 2nd sentence under separation should be added.

Vice Chairman Oehler said if they have a utility right-of-way between you wouldn't need the 1200' and could be less than the 1200'.

Planner Milillo said that was correct. That is the way they always supply their separation distances for all of the uses that require them. If the Commission does have an issue with occupancy it was suggested that they add X number of resident's maximum standards number 3, not to exceed 2 residents per bedroom and a maximum of X number of residents.

Commissioner Fuller said that he was more in favor of the Use Permit then what is being proposed currently. If they should get a bad actor with complaints like the two previous ladies were describing, is the registration something that could be pulled.

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Planner Milillo said that he believed that it would be Code Compliance activity. The registration is basically a formality where they will be providing the Town with information and they would be told whether they meet certain minimum requirements such as separation distances and that they are in the right zoning districts.

Commissioner Fuller said that it was just basically an information card.

Planner Milillo said that was correct.

Vice Chairman Oehler said that going back to the parking, there is no way to go to the visitor like they have the .25 per visitor so you deal with the bedrooms and then you look at if you have 10 people then there is a base limit whatever that number is plus the visitors at that point is there a way to add a percentage or is it truly based on group home which is stated in the 4.2 or would they have to do a complete amendment to get to that point for the visitor.

Planner Milillo said that they can add another provision the way it is currently written unless they are in the districts that have the requirements of the .25 guest parking or in a multifamily district that requires visitor parking. You do not have to provide that but if it is the Commissions wish to add that type of a requirement under the parking section they can certainly do that.

Vice Chairman Oehler said that would be added to the 4.2 as a line item for that type of use or how would that be stated.

Planner Milillo said that they might be able to cross reference the parking requirements but they may want to add something specifically to the supplemental use regulations that addresses that.

Chairman Wittmann said that generally speaking no more than 50% of the occupants have vehicles so if they start adding requirements to parking for the entire number of occupants then you are potentially adding spaces for those who do not utilize them. She wondered if there was a way to handle that and instead of addressing it as a percentage per occupant, perhaps if it is no more than 3 cars can be parked on the street parking at any one time. The problem is parking on the street and the effect on adjacent residents.

Commissioner Peterson asked if they were looking at all the vehicles that would potentially be at the home because of the occupants that are there.

Vice Chairman Oehler said that he was looking at it in terms of that perhaps when you first move in you don't have a vehicle but through the process you get a car and get ready to go back into society then that number starts to grow as they are successful. You would not be at 100% parking but he was looking at if this were my house how what I do it at my house.

Commissioner Peterson said that if you're looking at visitor parking that is different than occupancy.

Vice Chairman Oehler said that he was classifying visitors as occupants not visitors. He was looking at a single family home and how would it occupy. That is his baseline.

Commissioner Peterson asked how you enforce that. In her neighborhood they have three-car garages and there are still 3 family cars parked on the street because people don't want to do the jockeying in the driveway. Who enforces that?

Vice Chairman Oehler said Code Compliance. However, he wished that there were another way other than Code Compliance because they take a year to have things happen.

Commissioner Peterson said that was an awfully large load to put on Code Compliance.

Planning Manager Linda Edwards said that if she understood the Vice Chairman's suggestion to add .25 visitors to the use that would be very difficult to do in a neighborhood that is already developed. When talking about a single-family neighborhood that has a requirement for visitor parking it is established at the time of preliminary and final plat. Once the homes are built the only way to add visitor parking is for a property owner to somehow acquire land within an established neighborhood. If the streets are public anyone can park in the street whether it's 3 cars or 15 cars and Code Compliance cannot kick someone off a public street if they are parking legally.

Vice Chairman Oehler said that he was using the word visitor but was looking at it as occupant and he wants the occupants parking on-site. If they have 6 cars he wants to force as much as he can to get those cars on-site and not off-site. He said that if they want to park they have to have a large enough lot to park on-site either tandem or in his side yard if that's allowable.

Miss Edwards said that the code provides parking per unit on-site. A realistic sober home could have more cars per unit just like any family with teenagers. She said that she wanted to advise the Commission to be careful that they are not requiring something more of a federally protected handicap class than a normal family with teenagers.

Chairman Wittmann said that the concern was that they do not want to create a burden on existing residences for these uses coming in and parking along the street. Perhaps it becomes a requirement that these businesses have to find a home that has 3 or 4 car garages or enough parking available or make it such that they can provide enough on-site parking so that it doesn't intrude on adjacent residences. Because it is a protected class they have no remedies other than Code Compliance. There is no way for them to control the bad operators.

Chairman Wittmann closed the public hearing.

Commissioner Bianchi said that this is a recovery business operating in a residential area and is permitting more adults than is typically in any home for short periods of time almost creating a transient like environment. If the tendency is to lease, is there really a long-term benefit to the neighborhood in addition to the HOA's having to accept these as well. He said that he was not comfortable allowing two adults per bedroom plus a house manager with Zoning Administrator options for additional residents. He said that he believed that they could allow fewer residents per home and perhaps not in every residential district especially small lot residential. Maybe they could look at a use permit for recourse as an option or some sort of recourse such as a cap on the number of residents. Somehow that still allows them to be within fair housing compliance but at the same time protecting peoples housing investment. Commissioner Bianchi said that as it is written currently he could not support it.

Commissioner Fuller said that he thinks this use provides a valuable service to the community. He said that they had had citizens come forward who have stated that the program has really changed their lives. On the other hand they have also had individuals give testimony about how disruptive a poorly run house is on their neighborhoods. Commissioner Fuller said that he would be in favor of a Use Permit. He said that in his mind if these residences are operated properly and by the rules it will be fine. If not, then there is some sort of remedy that he did not see in what was being proposed currently. Code Compliance is not a proportionate remedy to the destructive nature that a poorly run house has on the community.

Chairman Wittmann said that a Use Permit requires notice so how do they get around that since this is a protected class.

Commissioner Fuller said that they would post the notice; people would come in and say that they do not want a sober house in their neighborhood and the Town's response would be that that is not a legitimate reason for not allowing a use permit.

Chairman Wittmann said that playing devil's advocate, if a Use Permit was a requirement and they had to meet the 4 state standards, one being no detrimental to adjacent residents, residents could theoretically come in and say this will have severe negative impact on the neighborhood.

Commissioner Fuller said that was a prospective damages claim that is unenforceable. What they would say is that those citizens don't know that. There are many of those residences that are run properly and do not have a negative impact on their neighbors.

Chairman Wittmann said that they could refer to the operations plan which would be couched in a way that would protect and regulate that residence.

Commissioner Fuller said that was correct and if they don't do what they are supposed to they are in danger of losing their Use Permit.

Commissioner Peterson noted that their packet did not even discuss the Use Permit as an option. The public was not allowed to discuss the Use Permit as an option. They went with what was presented to them by staff and what was in the packet. She said that it would be more beneficial to her and perhaps to others to continue the case for one more month and come back and discuss it some more and hear from the public how they felt about a Use Permit. That was not even on the table for business owners or the public to discuss. Commissioner Peterson said that she heard from the owner/operators in the meetings that a Use Permit is going to open their property up to everyone. They like to keep their residences anonymous. They like to keep the people who come into those residences anonymous and do not want the public to know where they are located. Because they come into the Town and file a permit and their operating procedures you can come in and request that and find out where they're located but it is not opened up to everyone with public notice with a 4' x 6' bright yellow sign in their yard that says this is a potential recovery residence. That opens them up for everyone knowing that that is what that property is going to be used for and does not keep them private and anonymous. It also does not fall under the same standards as being treated like a group home.

Commissioner Fuller said that if they want to continue to the case he would be fine with that. They are not private now as they have to file with the Town. If they were truly concerned about them being private they would not have a registration component.

Commissioner Peterson said that this would be a lot more public as the residence would be published in the packet, noticed with a 4 x 6' sign, aired on Channel 11 and the packets with the location would be on the website. That is much more public than then coming into the Town to file an application.

Commissioner Fuller said that he was not so sure that it was a bad thing that the neighbors know that there is a recovery house going in next door to them. He said that with the way it was presented he would not be in favor of the request but would be in favor of a Use Permit.

Commissioner Sippel said that he would be okay with further discussion in terms of a Use Permit. As it is currently written, he would like to see some sort of not to exceed 11 or 12 occupancy. He chose the number 11 because of their being 2 per bedroom and one on site manager. There may also be some sort of parking solution, for example one space per bedroom or something like that.

Commissioner Cavanee said that he was happy to continue the case and would agree that a cap needed to be put on the house and concurred with 11 if that is the direction they wanted to go. A continuance would give them a little more time to flesh out some of the other issues.

Commissioner Peterson asked Commissioner Cavanee how he felt about the Use Permit process.

Commissioner Cavanee said that he understood the protected class comment and would certainly defer to legal counsel to make sure that they understand that better and are not in a position to be at risk for something in the future. He said that he also understood Commissioner Fuller's comments about the benefits of a use permit and that you can revoke it. He said that he thought there was plenty of balance between how private and public these homes should be. If one comes into your neighborhood you might want to know where it is at. Commissioner Cavanee said that in terms of the Use Permit he was more concerned with the legalities and if it were legal it would probably be a better option.

Commissioner Sippel said that as an HOA president and thinking of his community he would absolutely want to know if there was one in his community. He did not know if they could do that but if they could he would be in much more support of a Use Permit just because of that.

Vice Chairman Oehler said that he would not be against the Use Permit but would like to know if there was another mechanism where they could go outside of that. He would also like to see standards set in the operation agreement. Vice Chairman Oehler said that he also had a concern about the number of occupants per unit.

Commissioner Peterson said that the residential uses came directly from staff out of the group homes. It is mirrored exactly the same to keep it fair.

Vice Chairman Oehler stated that he was 100% in favor of setting some kind of standards for occupancy. He said that everything that they have currently is based on the good operator and they have no parameters for the bad operators. He said he would not have any problem having a good operation in his neighborhood. But they need some mechanism for the bad operators. He said that they were not getting people who came in and said that they had one of these homes next to them that were a perfect neighbor with a well-run operation.

Commissioner Peterson said they did have those people at the first meeting. The reason that they were getting the bad stories is because there are no regulations at this point.

Vice Chairman Oehler said that they were not raising that bar high enough. He said that a Use Permit would be a difficult issue because of the protected class so he would like to see if staff could find another mechanism.

Commissioner Peterson said that they did look at other options such as administrative and conditional and what they were looking at was what they came up with as a group which included staff and the Town Attorney.

Vice Chairman Oehler said that to overload the Code Compliance staff would be tough and enforcement would just entail a letter and perhaps a fine and would drag out over a long period of time. That is no solution for a bad apple.

Commissioner Peterson said that her understanding was that the Vice Chairman liked the idea of the revocation of the Use Permit so that if there is a problem there is a way to resolve it but was not necessarily for the Use Permit in the sense of a public hearing and all of that.

Vice Chairman Oehler said that is why he would be in favor of, for example, 10 items in an operation manual and if there is something in the manual that the operators/owners are not doing there would be a mechanism to pull their ability to operate.

Commissioner Fuller said that the fact that the operators/owners have to go through a public process was not as much of a deterrent to him to not be in favor of the Use Permit but that is not the issue, the issue is that they need some sort of remedy for the bad apple. As long as they do what they say they are going to do they are going to be able to operate in the Town. If they don't do what they say they are going to do there needs to be a remedy where they are not going to operate in the Town.

Commissioner Peterson said then that is the instruction that they need to give to staff.

Chairman Wittmann said that she also believed that there needed to be some sort of remedy in place. Their job as the Planning Commission was also to protect the existing residents; the way it is currently designed it is not necessarily doing that. It is only protecting the owner/operators and the protected class. There definitely needs to be a limit in the number of occupants, specifically the number of recovery residents, not necessarily the operator. Chairman Wittmann said that in her mind the number would be 10 with the operator not being part of that number. There also needs to be some way to address the parking concern so that the streets are not overloaded. Chairman Wittmann said that she would also like to see an outline of a manual/plan that addresses hours of operations and specifics that the owner/operators have to complete as part of their plan rather than even leaving it open-ended. There needs to be some mechanism to control this type of use. If the Use Permit is the only opportunity to create some teeth in this type of use, as long as they meet the 4 findings they should be allowed. Residents need to know what is coming into their neighborhood as they have invested in their neighborhood and have the right to know without having to go and do their own research or to find out about it after the fact when they begin to have problems, if they have problems. Chairman Wittmann said that she would be in favor of a continuance to give staff an opportunity to come up with some creative way to address some of the issues.

A motion was made by Commissioner Kristofer Sippel and seconded by Vice Chairman Joshua Oehler to continue Z13-02 to the January, 2014 Planning Commission meeting.

Planner Milillo asked if the Commission would consider continuing the case to the February 2014 Planning Commission meeting as staff would like an opportunity to meet with the focus group again and he personally would not be there in January.

Commissioner Sippel amended his motion to continue Z13-02 to the February Planning Commission meeting. Vice Chairman Oehler concurred.

Motion carried 7-0

UP13-19 VERIZON: A CONDITIONAL USE PERMIT TO ALLOW A NEW MONO TREE WIRELESS COMMUNICATION FACILITY - WCF, ON 0.01 ACRES OF REAL PROPERTY, AT 2456 S WILLIAMS FIELD RD., LOCATED SOUTH AND WEST OF THE SOUTHWEST CORNER OF HIGLEY AND WILLIAMS FIELD ROADS, IN COMMUNITY COMMERCIAL (CC) ZONING DISTRICT WITH PLANNED AREA DEVELOPMENT (PAD) OVERLAY.

Senior Planner Al Ward stated that UP13-19 is a request is to locate a new Verizon Mono Tree Wireless Communication Facility with a height of 65 ft. on a 0.01 acre site at on a 0.01 acre site at 2456 S Williams Field Rd., located south and west of the southwest corner of Higley and Williams Field Roads, in the Community Commercial (CC) zoning district with Planned Area Development (PAD) overlay. The Cell Facility is intended to look like a Broadleaf Tree such as an Elm tree and resemble other deciduous trees, which the applicant indicates are contained in the vicinity. An existing

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